

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

Case No. 91-80449

MARK WADE BREDOW,

HON. AVERN COHN

Defendant.

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**ORDER DENYING DEFENDANT'S MOTION UNDER RULE 60(b) (Doc. 40)**

This is a criminal case. In June of 1993, defendant was sentenced to 27 months imprisonment following his guilty plea under a Rule 11 agreement to one count of felon in possession of a firearm and one count of felon in possession of ammunition. The judgment indicates that the 27 month sentence on each count was to run concurrent but consecutive to a state sentence defendant was serving.

Now before the Court is defendant's motion for relief from judgment under Fed. R. Civ. P. 60(b). Defendant seeks relief from the "default" judgement entered in 1993. As best as can be gleaned, defendant takes issue with the manner in which the Bureau of Prisons has computed his sentence. The motion is DENIED. The reasons follow.

First, defendant cannot use Fed. R. Civ. P. 60(b) to seek relief from the final judgment of conviction in his criminal case because "Fed. R. Civ. P. 60(b) does not apply in criminal proceedings." United States v. Bender, 96 F. App'x 344 (6th Cir. April 26, 2004), available at 2004 WL 898721, at \*1 (citing United States v. Fair, 326 F.3d 1317, 1318 (11th Cir. 2003)). Accordingly, Rule 60(b) offers defendant no relief from his judgment of conviction and sentence.

Second, to the extent defendant is challenging the execution of his sentence, his claim must be brought via a motion under 28 U.S.C. § 2241. Under section 2241, a federal prisoner can bring a motion challenging the execution of his sentence, such as the manner in which the BOP has computed his sentence credits or determined his parole eligibility. United States v. Jalili, 925 F.2d 889, 894 (6th Cir. 1999).

SO ORDERED.

S/Avern Cohn  
AVERN COHN  
UNITED STATES DISTRICT JUDGE

Dated: May 10, 2016  
Detroit, Michigan